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Romani Minorities Caught in-between: Impeded Access to Citizenship and de facto Statelessness in the Post-Yugoslav Space

20 SEPTEMBER 2013 | DR JULIJA SARDELIĆ, CITSEE RESEARCH FELLOW, SCHOOL OF LAW, UNIVERSITY OF EDINBURGH

Since the 2004 and 2007 EU enlargements, Roma became the EU largest minority, but also continue to be one of the most vulnerable groups of citizens in the enlarged Union. Instead of the promising prospects for the full inclusion into the EU citizenry, Romani minorities, often labelled as the most noticeable victims of the post-socialist transition, are regularly positioned into the so-called EU apartheid, to paraphrase a philosopher Étienne Balibar. The question why many EU citizens, who are identified as belonging to Romani minorities, have de facto obstructed access to certain fundamental rights, which other citizens from ethnic majorities usually take for granted, still remains one of the disheartening issues for many policy-makers, although many anti-discrimination campaigns and projects have been launched to improve their position. Furthermore, numerous scholars have dealt with the position of Romani minorities in Central and Eastern Europe in connection to EU enlargement. Closely related to this context and posing one of the major challenges, however, yet to be substantially faced by policy makers and sufficiently addressed by academics is the repositioning of Romani minorities within the transforming citizenship regimes in the Post-Yugoslav space of which most are still located on the outer edges of the European Union. Due to the history of state disintegration(s), the main question in these settings is not simply the access to rights as citizens of newly established Post-Yugoslav states, but rather the access to citizenship itself and hence de facto statelessness.



According to my own research, many different studies, reports along with blogs, including those published on statelessness.eu, have rightfully pointed out that after the disintegration of the former socialist Yugoslavia in the 1990ies, Romani minorities (beside Roma I include here Ashkali, Egyptians, but also consider other groups such as Boyash Roma, Vlach Roma, Sinti, etc. so as to acknowledge the heterogeneity of different identities and identifications) regularly found themselves in a specific predicament since they encountered many obstacles in accessing their citizenship at their place of residence. Thus, they were disproportionally overrepresented within the groups of individuals who had difficulties when regularizing their citizenship status. Ethnic discrimination targeting Romani minorities specifically is usually correctly pinpointed as one of the main reasons for such occurrence. However, as I claim on the basis of my own research, the reasons why the access to citizenship in the Post-Yugoslav space has been hindered especially for Romani minorities are multi-layered and need to be studied as such in order to tackle this daunting issue. Such perplex position of Romani minorities in the Post-Yugoslav space cannot be attributed only to individual occasions of ethnic discrimination, but it was equally created by imperceptible contemporary and nonetheless historical hierarchies, which need to be studied further. These appear virtually in all the Post-Yugoslav states, although their developments went separate paths after the Yugoslav disintegration(s).

In order to thoroughly comprehend why access to citizenship was impeded for many individuals categorized as belonging to Romani minorities in the Post-Yugoslav space, it needs to be examined how they were positioned within the polity of the socialist Yugoslavia. My claim is that their position was not invented ad novum, but it was also based on previous invisible hierarchical inclusions rather than social exclusion per se that determined it. Different scholars dealing with the position of Romani minorities usually praise Yugoslav policies. The most typical approach that several of socialist state systems took in regards with Romani minorities was assimilation. In the socialist Hungary and Czechoslovakia, the position of Romani minorities was contextualised in socioeconomic terms as they were

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perceived as an underclass, which needs to be assimilated into the working class in order to be fully integrated into the society. On the one hand, these states constructed very efficient policies on how to include Romani minorities into working processes, usually as manual factory workers, and not giving special attention to ethno-cultural identity of Romani minorities. On the other hand, Yugoslav policies were distinguishable in such manner that they privileged ethnic integration over social assimilation in regards to Romani minorities. This was also manifested in the support League of Communists of Yugoslavia (LCY) offered to the International Romani Movement in the beginning of the 1970ies. Consequently, this played an important role in the creation of the Romani political and intellectual elite. In 1971, Slobodan Berberski, a Yugoslav citizen and a member of the LCY central committee, was elected the first president at the World Romani Congress near London. Although former Yugoslavia never established an efficient plan on how to include all Romani minorities into the formal labour force in the spirit of the solidary ideology of "Brotherhood and Unity", other institutions that served for means of inclusion were developed where Romani individuals were treated as equal, such as the Yugoslav People's Army.

However, in their everyday lives, a vast majority of Romani individuals, who were not part of the Romani political and intellectual elite, were among the most disadvantaged citizens of the socialist Yugoslavia with the worst housing conditions (which also included living in informal settlements without an official address) and the lowest life expectancy as well as the lowest educational standard and higher illiteracy rates. Yugoslav authorities were well aware of these unfavourable conditions and were in many instances considering recognizing Romani minorities as a disadvantaged nationality (*narodnost*). Yet this plan never materialized and Romani minorities were never constitutionally recognized as a nationality, but were rather informally referred to as an ethnic group in most Yugoslav socialist republics. Consequently, they were constitutionally granted fewer cultural group rights than constitutive nations and nationalities. Thus a certain ethnic hierarchy was already embedded in the Yugoslav system, although it was not the most decisive category. Furthermore, the 'ethnic group' rights granted to Romani minorities were different according to contexts in different republics. For example, in the Socialist Republic of Macedonia, ethnic groups were recognized as equal to nations and nationalities, and the Romani language was part of the mainstream school curriculum, while in Slovenia the Romani language (and inadequate knowledge of majority language) was perceived as a handicap, hence many Romani children were enrolled in primary schools for children with special needs. In addition, since Romani minorities in Yugoslavia were not primarily considered a social group as in other socialist states, but as an ethnic group, there was no unified policy on how to fully include them into the official labour force. They were therefore only hierarchically included into the working class. The consequence of this was that many Romani individuals found their gainful employment in alternative, yet mostly informal economic niches, which were tolerated as a 'specificity of Romani culture'. Although by the 1970ies Romani minorities mostly had sedentary vocations, their employment in these alternative economic niches demanded at least seasonal migration. The outcome was that many Romani individuals as well as larger families settled in informal settlements in a different socialist republic where they did not formally possess republican citizenship. Little did they know that this would later determine their inclusion or exclusion into the newly formed bodies of citizenry. After the disintegration of Yugoslavia and with transition from socialism to capitalism, their economic niches were abolished to a large extent since there was no more demand for the craft and skills they possessed. A genuine concern for their position demonstrated by the Yugoslav authorities was then pushed into the background of the manifested ideologies of dominant ethnic rivalries. At that time, their position was simply not taken into account, but previous invisible hierarchies became more prominent as they determined the position of Romani minorities as future (non-)citizens of newly established states.

After the disintegration of SFRY, the phenomenon of statelessness en masse was avoided due to the principle of legal continuity of the former republican citizenship with the citizenship of respective newly established Post-Yugoslav states. However, republican citizen registers were in many instances incomplete. That meant that some individuals were not able to prove that they had the republican citizenship in the former republic where they resided. Furthermore, a much larger problem that occurred was that many people did not possess the republican citizenship of the state they resided and they became non-citizens at their place of residence. Most of these people could not be considered *de iure* stateless since they possessed the citizenship of another Post-Yugoslav state, which left them positioned in a very specific legal in-betweenness to paraphrase a postcolonial theorist Homi Bhabha. This was especially decisive for the position of Romani minorities in the Post-Yugoslav space. In addition to more or less peaceful internal migration of Romani individuals within the Socialist Yugoslavia, many had to flee from their homes during the last Yugoslav wars between 1991 and 1999 since they frequently found themselves caught in-between the conflict of the newly defined constitutive majority and the dominant minority (e.g. between the Croatian majority and Serbian minority in Croatia, the Macedonian majority and Albanian minority in Macedonia, the Albanian majority and Serbian minority in Kosovo, etc.). Due to forced migrations, they often became refugees and internally displaced persons without any prospects for returning to their place of origin.

Nevertheless, the Post-Yugoslav war conflicts were not the only defining ground for the re-positioning of Romani minorities. They were also caught in-between the processes of drafting new citizenship legislations, which defined who would be included into the new bodies of citizenries and excluded from it. As they were not perceived as a destabilizing minority or the ultimate Other in new polities, the drafting of the citizenship legislation did not target them directly, however they can be in many instances perceived as 'collateral damage'. Many Romani individuals did not possess the republican citizenship of the republic where they resided, or were not able to prove that they were habitual residents in the case of

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Kosovo. Therefore, they were unable to acquire citizenship of the newly established Post-Yugoslav states automatically on the basis of legal continuity, but they had to access citizenship at their place of residence through naturalization processes. On account of certain specific features of the Romani minorities' position in the post-Yugoslav space, such access to citizenship was often impeded.

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What at first instance seemed one of the most neutral requirements in order to acquire citizenship proved later to be a major obstacle for post-Yugoslav Romani minorities in their access to citizenship at their place of residence. In other words, they had to prove their legal address or fulfil an additional requirement to reside in a state for a certain period of time. Since the majority of Romani individuals in all of the Post-Yugoslav states lived in informal settlements and many migrated across republican borders within SFRY due to their employment in a specific economic niche, it was often the case that they were unable to prove *de iure* their *de facto* residency. Due to this in-betweenness, they were unable to prove that they had met this criterion for the acquisition of citizenship. Administrative registration still remains a difficulty for many Romani individuals in the region living in substandard housing conditions. According to [UNHCR](#) and legal advocacy NGOs, such as [PRAXIS](#), this problem was to some extent bypassed in Montenegro where individuals could register their legal address at the offices of the Roma National Council. The same can be done in Serbia at a social services office. However, according to the representatives of [Romani NGO Lil](#) working on access to citizenship for Romani minorities in Macedonia, inability to register formal place of residence still represents one of the major issues for many Romani individuals when accessing citizenship and accompanying rights.

Secondly, Romani individuals were in many instances unable to fulfil the so-called 'language and culture' requirements for the acquisition of citizenship in Post-Yugoslav states. Although they were not the main targets of these requirements – in Macedonia, for instance the Albanian minority was targeted, while in Croatia, the targeted group was the Serbian minority – they were caught in-between and affected the most by such measures. For example, according to Article 8 of the Act on Croatian Citizenship, one must be 'proficient in the Croatian language and Latin script, and [...] familiar with the Croatian culture and social arrangements' in order to acquire Croatian citizenship. Although in the context of the conflict, the Serbian minority was the main target group, this condition indirectly affected those who were illiterate since this meant that they were unable to prove their knowledge of the Latin script. In this case, direct discrimination of Romani minorities cannot be proven. However, due to both past and present hierarchical inclusion of many Romani individuals in the educational system (for example by placement in segregated classes or schools for children with special needs), their illiteracy rate was reported to be higher. According to the [European Roma Rights Centre \(ERRC\)](#), a case of an illiterate Romani woman who claimed she had been denied access to Croatian citizenship was brought before the Constitutional Court of Croatia. However, the Constitutional Court decided that she was not entitled to Croatian citizenship, even though she had lived in Croatia since 1987 due to her lack of knowledge of the Latin script. The ERRC criticised this decision harshly because Croatia offered facilitated naturalization to non-resident individuals of Croatian ethnicity, while failing to take into account special conditions in which non-majority residents, such as Romani minorities, live.

Finally, one of the major problems for many members of Romani minorities for acquiring citizenship in their country of residence is the lack of guaranteed funds. For example, even in cases where they fulfil all the criteria for the acquisition of citizenship, many Romani individuals are unable to pay fees and taxes connected to the administrative procedure of naturalization. Furthermore, after the disintegration of Yugoslavia, many Romani individuals (especially women) in Slovenia fell into the category of [the erased](#). These were not only 'non-autochthonous' Romani minorities living in the urban centres of Slovenia, but also many residing within the 'autochthonous' area of a Romani settlement. Since they missed a 6-month period for acquiring Slovenian citizenship in 1991, they were erased from the register of permanent residents. Again they were not the ones who were explicitly targeted in this case, but were caught in-between of redefining the Other in Slovenia. Although most of these Romani individuals were able to get their permanent residence registered two decades later, being erased meant they had no right to work, and as a result were unable to provide for themselves. Furthermore, they are currently still discriminated against on the labour market in Slovenia and have difficulties acquiring employment. According to Article 10(4) of the Citizenship Act of the Republic of Slovenia, a person who wishes to acquire Slovenian citizenship by naturalization must 'have guaranteed funds that enable material and social security'. Although this provision is not atypical for citizenship acts, it is especially dubious in the case of the erased whose rights, such as the right to work and the right to healthcare, were annulled by that very state.

Given the fact that many Romani individuals had difficulties in accessing citizenship at their place of residence, they found themselves in forced in-betweenness. This was on the one hand characterised by the fact that they were often not considered to be legal aliens with permanent residence. On the other hand, they *de iure* possessed citizenship of another Post-Yugoslav state, which was ineffective. Therefore, while in the Post-Yugoslav contexts the phenomenon of *en masse de iure* statelessness was avoided (due to legal continuity between the former Yugoslav republican citizenship and the citizenship of post-Yugoslav independent states), a large proportion of Romani individuals found themselves *de facto* stateless. As they had citizenship, albeit it was ineffective, they were also not protected by the 1954 [Convention relating to the Status of Stateless Persons](#).

In the case of Post-Yugoslav Romani minorities, *de facto* statelessness became an inter-generational issue and it turned into a vicious circle in which a large number of the Romani population fell into the group of [legally invisible persons](#). This occurred due to a

failure of registering these individuals at birth. The lack of birth certificates is the primary reason why many individuals identified as Romani cannot in the first instance access citizenship. According to the UNHCR [data](#) and the data obtained from different legal and Romani NGOs(I) in the region, there are different reasons why Romani individuals often lack birth certificates. For example, due to the fact that Romani women have limited access to the healthcare system, many Romani children are born at home and their births are not reported or registered in the required period. Furthermore, in some instances these children are even born to mothers who themselves lack personal identification documents and are therefore unable to register their children. In other instances, many Romani women did not have healthcare insurance and gave birth in a hospital under a different women's name. All of these cases then require subsequent registration that is connected to the payment of certain fees and taxes. This required funds that most of the legally invisible persons did not possess and were therefore not able to gain birth certificates, which is also a primary requirement for accessing citizenship.

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For the foreseeable future, Romani minorities remain on the margins of Post-Yugoslav states due to their precarious citizenship statues and impeded access to citizenship, which is still not fully resolved. As I argued in this text, their impeded access to citizenship cannot be only attributed to direct occasions of ethnic discrimination, but is more often connected to even more deeply rooted systemic hierarchies, which disproportionately affect Romani minorities whose position is not primarily addressed as they are caught in-between. In order to ensure access to citizenship for all citizens in the Post-Yugoslav space, including the most vulnerable ones, not only ethnic discrimination has to be addressed, but these hierarchies producing structural inequalities also need to be tackled. Furthermore, if these hierarchies remain intact, the next EU enlargement will be characterized not only by the widening of EU territory, but also by broadening of EU apartheid described by a philosopher Étienne Balibar.

(I) I am especially thankful to all the interlocutors that I interviewed during my fieldwork at the end of 2012: representatives of international organizations such as UNHCR, UNDP, OSCE and OSI as well as representatives of governments and different Romani and legal NGOs such as Praxis, Your Rights, Lil, Roma National Centrum, Sonce, Legal Centre, CRP Kosovo and many others.

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